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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,913	08/20/2001	Nghi Van Nguyen	05725.0848-00	4345

7590 07/23/2004

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EXAMINER

ELHILO, EISA B

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/931,913	Applicant(s) NGUYEN ET AL.	
	Examiner Eisa B Elhilo	Art Unit 1751	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-20 and 22-45.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Bryan P. Mruk
BRYAN P. MRUK
PRIMARY EXAMINER
TECH CENTER 1700

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Continuation of 5. does NOT place the application in condition for allowance because: Applicant has not presented any additional data or showing to overcome the rejection of record. The arguments presented and dated on 7/12/2004 merely rehash the arguments presented earlier, which were fully responded by the examiner in previous office action dated on 4/13/2004. Further, with respect to the argument that Au et al. (US' 111) does not teach or disclose a composition for lanthionizing keratin fibers comprising an oxidizing agent such as hydrogen peroxide which is only used in the composition of Au et al. (US' 111), for bleaching the glycosylamide surfactants and the hydrogen peroxide is presented in a trace amount which is ineffective for lanthionizing keratinous fibers and thus outside the scope of the instant claims as shown in the Examples at page 20, Table 1. The examiner respectfully disagrees with the above argument because Au et al. (US' 111), teaches a bleaching agent in the amount of 0.01% to 7% (see col. 30, line 13-14) which cover the amounts of 1%, 3% and 6% as recited in Table 1, at page 20 and wherein the bleaching agent is added to the composition after the reaction of manufacturing of the glycosylamide surfactants is completed, which implies that the bleaching agent is part of the composition and is not used or involved in the process of manufacturing of the surfactants which is contrary to the applicant's assertion. With respect to the argument based on Au in view of Pyles, the examiner would like to point out that Au et al. (US' 111), clearly suggests the use of the moisturizers of tallow fatty acids which are essential amino acid compounds in the composition (see col. 10, lines 62-65). Pyles (US' 630) in analogous art teaches a composition comprising amino acid of sodium Glutamate (see page 4, paragraph 0091) and therefore, the combination is proper and the prima facie case of obviousness has been established. With respect to the argument based on Au in view of Wella, the examiner disagrees

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with the applicant's argument for the reasons set forth in the previous office action. Accordingly, the claimed subject matter as a whole would have been obvious to one having ordinary skill in the art of keratin fibers lanthionizing formulations.